HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 455(S/S)04:

1. Ram Niwas S/o Sri Ram Swroop,
   R/o Dak Bungalow Campus, Bhimtal,
   District Nainital,
2. Raj Kumar S/o Sri Budh Sen,
   R/o Dak Bungalow Campus, Bhimtal,
   District Nainital,
3. Sattay S/o Sri Baloo,
   R/o Dak Bungalow Campus, Bhimtal,
   District Nainital,
4. Smt. Sita Devi W/o Sri Ram Niwas,
   R/o Dak Bungalow Campus, Bhimtal,
   District Nainital,
5. Smt. Kelawati W/o Sri Ramphal,
   R/o Dak Bungalow Campus, Bhimtal,
   District Nainital, ---- Petitioners.

Vs.

1. State of Uttaranchal through Secretary,
   Urban Development, Dehradun,
2. Nagar Panchayat, Bhimtal,
   District Nainital through its,
   Executive Officer. -----Respondents.

Sri T.A. Khan, learned counsel for the petitioners,
Ld. Standing Counsel for State /respondent no. 1
Sri M.C. Kandpal, learned Sr. Counsel for respondent no. 2.

Hon'ble M.M. Ghildiyal, J.

Heard Sri T.A. Khan, learned counsel for the petitioners, learned Counsel for State of Uttaranchal/ respondent no. 1 and Sri M.C. Kandpal, learned Sr. Counsel for respondent no. 2/Nagar Panchayat, Bhimtal.

2. By means of this writ petition, the petitioners have prayed to issue a writ, order of direction in the nature of mandamus commanding the respondents to regularise the services of the petitioners on their respective posts from the date of their initial appointment and further they be directed to pay minimum pay-scale to the petitioners.

3. This Court on 06.05.2004 directed the respondents to file counter affidavit within a period of four weeks and in the meantime the respondents were directed to pay minimum pay-scale to the petitioners.

4. Learned Sr. Counsel for the Nagar Panchayat has submitted that in compliance of the order passed by this Court on 06.05.2004, the petitioners are being paid minimum pay-scale. So far regularisation of their services is concerned, since there is no post sanctioned by the Govt., the petitioners cannot be regularised in absence of the posts.

5. The petitioners are the Safai Karmcharies, working under the control of respondent no. 2. It is alleged that the petitioners are working with the respondent no. 2 w.e.f. 07.07.1979, 19.08.1994, 10.03.1985, 16.02.1989 and 22.11.1987 respectively. Number of times they have made representations for regularisation of their services, which were forwarded to the State Govt., however the State Govt. did not take any action.

6. The respondent no. 2/ Nagar Panchayat, Bhimtal has filed counter affidavit. In para-4 of the counter affidavit, it is submitted by the respondent that there are only 3 posts of Sweeper sanctioned in the Nagar Panchayat, Bhimtal and the Nagar Panchayat has demanded 7 more posts of Sweepers. The respondent no. 2 in his counter affidavit has admitted that work is available with them, however the post are not sanctioned by the State Govt. which is within the purview of the State of Uttaranchal.

7. From the perusal of the record, it is evident that some of the petitioners are working with the respondents since 1979. In these circumstances it is provided that if the work of permanent nature available with the respondent no. 2, the respondent no. 2 may request the Govt. to increase the strength of the Safai Karmchari and it is expected that the respondent no. 1 shall

take decision on the request of respondent no. 2 as and when it receives the recommendation for increasing strength of Safai Karmchari in the Nagar Pancyayat, Bhimtal.

8. With these directions, the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

April 10, 2006:
NCM: